

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPIPAGE 1  
**FILED**

NOV - 2 2017

DAVID  
BY David Foreman, CLERK  
DeputyNevin K. Whetstone

Plaintiff

v.

Pelicia Hall, Commissioner, MDOC  
Richard Pennington, ARP Director, MDOC  
Centurion MIM > Angela Brown, CNP  
Wexford Medical > Pam Jarrett, CNP  
Dr. Woodard, M.D.  
Nurse Hill, CNP

CASE NO.

4:17CV158-DMB-JMV

Defendant

## PRISONER'S COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT

1. The Plaintiff's full legal name, the name under which the Plaintiff was sentenced, the Plaintiff's inmate identification number, the Plaintiff's mailing address, and the Plaintiff's place of confinement are as follows:

A. Legal name:

Nevin Kerr Whetstone

B. Name under which sentenced:

Nevin Kerr Whetstone

C. Inmate identification number:

#56663

D. Plaintiff's mailing address (street or post office box number, city, state, ZIP):

MSP / Unit 26B, C109  
Parchman, MS 38738

E. Place of confinement:

MSP / Parchman

2. Plaintiff names the following person(s) as the Defendant(s) in this civil action:

Name:

Angela Brown > Centurion MIM  
Pam Jarrett

Title (Superintendent, Sheriff, etc.):

Certified Nurse Practitioner / Medical Contractor

Defendant's mailing address (street or post office box number, city, state, ZIP)

111 East Capital St. Suite 500  
Jackson, MS 39201

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

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Name: Woodard, M.D. > Wexford Medical  
Hill, CNP  
 Title (Superintendent, Sheriff, etc.): Doctor  
Nurse Practitioner/Medical Contractor  
 Defendant's mailing address (street or post office box number, city, state, ZIP): 12311 Penny Hwy.  
Wexford, PA 15090

Name: Pelicia Hall  
 Title (Superintendent, Sheriff, etc.): Commissioner, MDOC  
 Defendant's mailing address (street or post office box number, city, state, ZIP): 633 North State St.  
Jackson, MS 39202

Name: Richard Pennington  
 Title (Superintendent, Sheriff, etc.): Director / MSP-ARP Program  
 Defendant's mailing address (street or post office box number, city, state, ZIP): P.O. Box 609 or P.O. Box 1057  
Parchman, MS 38738

(If additional Defendants are named, provide on separate sheets of paper the complete name, title, and address information for each. Clearly label each additional sheet as being a continuation of Question 2).

3. Have you commenced other lawsuits in any other court, state or federal, dealing with or pertaining to the same facts that you allege in this lawsuit or otherwise relating to your imprisonment? ☒ Yes ☐ No
4. If you checked "Yes" in Question 3, describe each lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuit(s) on separate sheets of paper; clearly label each additional sheet as being a continuation of Question 4.

## A. Parties to the lawsuit:

Plaintiff(s): Nevin K. Whetstone  
 Defendant(s): MS Dept. of Corrections

B. Court: Lee Co. Circuit Ct., Supreme Ct. of Fed. Northern C. Docket No.: No Recall

D. Judge's Name: No Recall E. Date suit filed: All in 2016

F. Date decided: All in 2016 G. Result (affirmed, reversed, etc.): All dismissed

5. Is there a prisoner grievance procedure or system in the place of your confinement? ☒ Yes ☐ No
6. If "Yes," did you present to the grievance system the same facts and issues you allege in this complaint? (See question 9, below). ☒ Yes ☐ No
7. If you checked "Yes" in Question 6, answer the following questions:

A. Does the grievance system place a limit on the time within which a grievance must be presented? ☒ Yes ☐ No

B. If you answered "Yes," did you file or present your grievance within the time limit allowed? ☒ Yes ☐ No

C. The court must find that you exhausted the prison's grievance system and administrative remedies before it can consider this Complaint. State everything you did to present your grievance(s). Be specific. Include the date(s) on which you filed or presented your grievances to prison officers; identify the officer(s). State your claim(s) exactly.

My sacrum locked in the wrong position in April, 1990. From that date until the present day, I have requested, importuned every single solitary medical provider I have talked to for help and treatment. Every supervisor of every job I was assigned; every case manager and every officer (not C.O.), officer of every building I was assigned, shift lieutenants and captains, wardens, asst. wardens; anyone who I thought might be able to help me, I asked for help. I'm steadily being ignored, put off on someone else, told to do an ARP or do another sick call. Doctors and CNPs continually state the medical contractor won't approve their request to provide treatment for my disorder. This goes on for years and my condition gets worse as time goes on. My spine began to collapse in 2004, I'm continually asking for help. August 2011 I completed an ARP, the 1st and 2nd step took 6 months to complete; this exhausted the prison's grievance system. In January 2017 I completed another more extensive ARP trying to obtain help and treatment. Richard Pennington, ARP Director refused to process the document. Felicia Hall, MAC Commissioner, refused to respond at all. Everything attached to this P3 form I mailed to Ms. Hall the 1st week of Sept. Sent another letter the 1st week of October.

D. State specifically what official response your grievance received. If the prison provides an administrative review of the decision on your grievance, state whether you applied for that review and what the result was.

The first step response I received for the ARP dated Aug. 2011, simply stated, "No chiropractor scheduled," a total avoidance of the ARP just to get it out of the way. I then applied for the 2nd step which is an administrative review, it goes to the warden, it was 4 or 5 months before he answered the complaint. He sent it to the medical department and told them to take care of me. I was called to medical and was seen by a Nurse Hill, CNP, I requested help and treatment emphatically, told her everything I was experiencing; she looked at the vertebrae protruding through my back and my deformed body, no X-ray was taken. She did finally document that I had a serious spinal disorder. This is after I had been complaining and requesting treatment for over 2 decades; she stated her boss' wouldn't approve any treatment but she did put an order in for me to see a chiropractor; this was denied. I've never been seen by an off-site doctor. The second ARP, dated January 2017 was returned to me. Richard Pennington, ARP Director, refused to process the document. He sent me a form letter stating I wasn't specific in what I was asking for and relief requested. This was a totally specious response. This ARP and refusal, and everything attached to this P3 form was sent to Mr. Michael Alston, Director, Civil Rights Division, Disability Rights Section, U.S. Dept. of Justice, Washington, D.C. Mr. Alston had no problem whatsoever discerning what I was asking for and relief requested. He informed me to do this lawsuit. I will do a full report to him when this litigation is complete.



**Special Note:** Attach to this Complaint as exhibits complete copies of all requests you made for administrative relief through the grievance system, all responses to your requests or grievances, all administrative appeals you made, all responses to your appeals, and all receipts for documents that you have.

8. If you checked "No" in Question 6, explain why you did not use the grievance procedures or system:

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9. Write below, as briefly as possible, the facts of your case. Describe how each Defendant is involved. Write the names of all other persons involved. Include dates and precise places of events. Do not give any legal argument or cite any legal authority. If you have more than one claim to present, number each claim in a separate paragraph. Attach additional pages only if necessary; label attached pages as being continuations of Question 9.

I have been trying assiduously ever since April 1990 when my sacrum rotated and locked in the wrong position, to obtain effective treatment from any and all medical departments in every facility I've been housed. Every single doctor or medical provider I've seen I have asked for help and treatment. Everyone have stated that they would not, could not, provide treatment for a spinal subluxation, or a condition/disorder of which I'm afflicted. I have had protracted discussions trying to persuade any and all to help me obtain a very simple and inexpensive treatment. At the end of every colloquy it all boiled down to the very prominent fact that the medical contractor would not approve the treatment, or more aptly put "pay for it." The medical provider or doctor would finally tell me the truth because I would not give up importuning them. I could see every doctor I've seen for the last 27 years but they are only doing what they have been ordered to do. Many of them wanted to help me but their actions were totally restrained by the medical contractor. I was moved from MCF trying to obtain treatment in 2009; moved to SMCF, where I finally got Dr. Woodard to take a X-rays as soon as he saw the condition of my back; vertebrae were already protruding through the dorsal area; he placed me in medical class 3; he steadfastly refused to provide treatment. My importuning the doctors got me moved to CMCF about a year later. I submitted an ARP in Aug. 2011, trying to obtain treatment; all that accomplished was my disorder was finally documented in my record after over 2 decades of complaining and requesting treatment. My importuning got me moved to Parchman after about a year passed. My condition is continually deteriorating, my spine is collapsing; please peruse attached ARPs. I stay on the doctors trying to get treatment. I got moved back to CMCF again because I'm steadily requesting treatment. At CMCF I'm continually importuning the doctors for help. Nurse Hill, CNP who was supposed to treat my problem, when the Aug. 2011 ARP was finally answered continually denied providing treatment. My importuning got me moved back to Parchman about a year later. I've been moved five different times because I will not give up requesting help and treatment. Here at Parchman I've submitted several Sick Call Requests

- trying to obtain treatment or even a medical release. I'm either seen by Nurse Brown, CNP or Nurse Jarrett, CNP; both refuse to provide any help or treatment; they both ignore, minimize or prevaricate, like my disorder doesn't even exist. My body is severely deformed and now I'm completely disabled. Richard Pennington, ADA Director, refused to process my totally explicit ADA because it was filed concomitant with Americans with Disabilities Act, not for the specious reasons he had checked in a form letter. Commissioner Hall refused to even acknowledge receipt of two correspondence a month apart apprising a serious grievance.
10. State briefly exactly what you want the court to do for you. Do not make legal arguments. Do not cite legal authority.

I respectfully request the state/MDOC to grant me a medical release to an out of state address; I met the criteria for this legal action four years ago (age, time served, and medical problems). I would sincerely appreciate the court expediting this matter so I can obtain effective medical treatment before I end up in a wheelchair.

My spine has collapsed and I am unable to stand up for long periods; walking is extremely difficult; pain is constant.

I respectfully request compensatory damages from the medical providers and or medical contractors comparable to the physical injury and pain I have suffered; and the conspicuous fact of my complete disability because of being refused available, effective treatment. Thank you....

This Complaint was executed at (location):

MDOC / Parchman, MS

and I declare or certify or verify or state under penalty of perjury that this Complaint is true and correct.

Date: October 25, 2017

Mimi Little

Plaintiff's Signature

United States District Court  
Northern District of Mississippi

Nevin Whetstone

✓

Pelicia Hall, Commissioner  
Richard Pennington, APP Director  
Centurion M&M / Brown, CNP  
Wexford Medical / Jarrett, CNP  
Hill, MD, CNP

Memorandum of Law

Plaintiff states that this 42 U.S.C. § 1983 be filed under Title II of the Americans with Disabilities Act, et seq. Section 504 of the Rehabilitation Act of 1973, et seq. and the Department of Justice regulation 28 C.F.R. Part 35 et seq. and the Eighth Amendment of the U.S. Constitution.

Americans with Disabilities Act Title II Regulations Manual provides; Section 35.152 Detention and correctional facilities - program requirements, page 147 - It is essential that corrections systems fulfill their nondiscrimination and program access obligations by adequately addressing the needs of prisoners with disabilities, which include, but are not limited to, proper medication and medical treatment, accessible toilet and shower facilities, devices such as a bed transfer or shower chair, and assistance for prisoners with physical disabilities.

Section 35.178 State immunity, page 54 - A state shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or state court of competent jurisdiction for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation in an action against any public or private entity other than a state.



U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section



## Title II of the Americans with Disabilities Act / Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form

Instructions: Please fill out this form completely, in black ink or type.  
Sign and return it to the address on page 3.

Complainant: Nevin Whetstone # 56663  
Address: MSP/Unit 26B, C109  
City, State and Zip Code: Parchman, MS 38738  
Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Person Discriminated Against (if other than the complainant): N/A  
Address: \_\_\_\_\_  
City, State and Zip Code: \_\_\_\_\_  
Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Government, or organization, or institution which you believe has discriminated:

Name: Mississippi Department of Corrections  
Address: MSP/Parchman, CMCF, SMCI, Marshall Co. Corr. Facility  
County: Sunflower, <sup>Rankin</sup> ~~Frank~~ Green, Marshall City: \_\_\_\_\_  
State and Zip Code: Mississippi Telephone Number: \_\_\_\_\_

When did the discrimination occur? Date: Began Apr 1990 - Ongoing

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary): Sacrum rotated and locked in place while housed at CMCF (Rankin Co.); began medical requests at that time and have importuned every single doctor I have seen for the last 27 years. Some of the doctors are but definitely not all include: Dial, Santos, Williams, Kapitay, Kumah, Vetas,, Easley, Woodard, Barr, Levine; Brown, Hill - last two nurse practitioners. Some would recommend treatment but a higher echelon would always refuse the request. The medical provider would be liable, they restrained the doctors. Wexford Medical and Centurion MHM are the contractors.

Have efforts been made to resolve this complaint through the internal grievance procedure of the government, organization, or institution? Yes ☒ No ☐

If "yes" what is the status of the grievance?

After two decades complaining and requesting help; something was finally documented in my medical record that there was serious medical problems; treatment was still denied, that was Aug. 2011. A recent ARP is enclosed w/ this complaint.

Has this complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court? Yes ☒ No ☐

If "yes":

Agency or Court: Lee Co. Circuit; MS. Supreme Ct.; Federal Ct. - Northern District

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date Filed: All three in 2016



Do you intend to file with another agency or court?

Agency or Court: U.S. Department of Justice / Civil Rights

Address: 950 Pennsylvania Av. N.W. / Disability Rights NYAV

City, State and Zip Code: Washington, DC 20530

Telephone Number: \_\_\_\_\_

Additional space for answers: I am a qualified individual with a serious disability being discriminated against due to these disabilities; and being denied from participating and benefiting from the programs, services and activities provided by the MS Dept. of Corr. (MDOC). This serious limitation of all major life activity is a direct result of discrimination by MDOC officials and institutions.

Two MS state courts had jurisdiction to grant a writ of Habeas Corpus that was completed seeking relief/release based on medical issues and my having met parole criteria over two decades ago. The controlling law was created by a liberty interest set by the U.S. Supreme Ct. in a CA case: Saldaña v. Adams 573 F. Supp. 2d 1303 (2008). The MS Supreme Ct. first dismissed the suit; changed it to a motion and said I was improperly before the court, send it to your sentencing court; that was done; the circuit court and the Supreme Ct. had jurisdiction; the circuit court then sends the suit to Sunflower Co. circuit court who doesn't have jurisdiction, who then dismissed it. The federal Ct. dismissed it as frivolous. Is this legal?

Signature: [Signature]

Date: January 25, 2017

Return to:

U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Disability Rights Section - NYAV  
Washington, D.C. 20530

This is to apprise you of my actual physical malady, since irrespective of the numerous dialogues I've had with every doctor I have seen over a twenty year period regarding this matter, everything is continually ignored and has yet to even be documented.

I am afflicted with Spondylolisthesis (slipped vertebrae) caused by a rotated sacrum. The sacrum is rotated anteriorly to the right. This position causes serious misalignment of every muscle and joint in the body. The pelvis is attached to the sacrum by ligaments and these two structures support the spine. All my vertebrae are in a very erratic position because of this misalignment. This subluxation is also responsible for the compression of numerous nerve trunks that pass through the vertebrae which causes serious problems both metabolic and structural due to truncated nerve function.

Only I experience: paralytic ileus, neuralgia, paresis, muscle spasms, joint dysfunction/lockup, numbness. The only treatment I've ever received is for the paralytic ileus and that isn't documented either.

I've had this disorder for over forty years and it is easily rectified by an Osteopath or Chiropractor; all the above symptoms vanish. Now, since the sacrum has been locked in the wrong position for over twenty years, I have major structural changes throughout my body and a 2 1/2 inch reduction in height. The reason I am disabled and in this condition is because the medical department of MDOC/GEO/Westford, et.al., refused to provide a very simple treatment.

The gravity of this matter is not light. The law delineates the requirements of the state regarding care and medical attention. The exact nature of my condition in its entirety needs to be fully documented and proper treatment is seriously requested and needed. Thank you.

ARP: January 10, 2017

This is a request for Administrative Remedy Program concomitant with Americans with Disabilities Act, et seq. Section 504 of the Rehabilitation Act of 1973, et seq. and the Department of Justice regulation 28 C.F.R. 42 Part 35 et seq. Discrimination complaint.

This is a request for Administrative Remedy Program. I, Nevin Whetstone, am a qualified individual with a disability, with a record of such impairment that substantially limits major life activity.

I, Nevin Whetstone, am a qualified individual to participate and or benefit from the programs, services and activities that are provided by the Mississippi Department of Corrections, (MDOC).

I, Nevin Whetstone, am being discriminated against due to my disabilities and being denied from participating in and benefiting from the programs, services and activities of medical, work, education, recreation, etc., as do other inmates; due to the discrimination of MDOC's institutions and officials.

My disabilities require effective auxiliary aids and services.

I am afflicted with Spondylolisthesis (slipped vertebrae) caused by a rotated sacrum. The etiology of this disorder is a missed landing off a high bar in the 7th grade, which dislocated the sacrum. My sacrum is rotated anteriorly to the right. The pelvis is attached to the sacrum by ligaments and these two structures support the spine. This position causes serious misalignment of every muscle and joint in the body. All my vertebrae are in a very erratic position because of this misalignment.

This subluxation is also responsible for the compression of numerous nerve trunks that pass through the



vertebrae, which causes serious problems both metabolic and structural due to truncated nerve function.

Daily I experience: paralytic ileus; neuralgia; paresis; muscle spasms; acute stabbing pains; joint dysfunction/lockup; numbness; osteoarthritic pain due to all my joints are trying to articulate in the wrong position; constant pain.

I've been dealing with this disorder for over forty-five (45) years and it was easily rectified by an Osteopath, Orthopedic surgeon or chiropractor. All the above symptoms vanish when my sacrum and spine are properly realigned.

Ever since April 1990 when my sacrum rotated and locked in place; I've asked, requested, pleaded with every doctor I've seen since that time, for help and proper treatment. I have continually and deliberately been ignored, given any and every excuse the imagination can conceive. The only thing/symptom I've ever received help for is the paralytic ileus and it wasn't even documented until 2017. In fact absolutely nothing was ever documented for over two decades of complaining and requesting treatment until I completed an ARP in August 2011, and I still was denied treatment.

Now, since the sacrum has been locked in the wrong position for over twenty-five (25) years, I have experienced major structural changes throughout my body. An almost four (4) inch reduction in height; my back is in a concave position with vertebrae protruding through the dorsal area; an X-ray (7/29/14) report states that this is normal; all bones, muscles and joints are misaligned, my spine is collapsing; my requests for proper treatment are still ignored.

The reason I am disabled and in this condition is because of the discrimination of MDOC's institutions and officials in refusing to provide a very simple treatment.

I have brought my medical issues to the state's attention for relief and to receive effective medical treatment for my serious condition that is subjecting me to very serious pain on a day to day basis.

Because of this complaint MDOC's officials should not retaliate against me in any way or unjust transfers.

### Relief

I seek the full range of remedy protection under the Title II Americans with Disabilities Act, et seq. Section 504 of the Rehabilitation Act of 1973, et seq. and 28 C.F.R. 42 Part 35 et seq.

Nevin Whetstone #56663  
Nevin Whetstone #56663  
MSP/Unit 26B, C109  
Parchman, MS 38738

January 10, 2017

**MISSISSIPPI DEPARTMENT OF CORRECTIONS****MEDICAL DEPARTMENT NOTIFICATION OF DIAGNOSTIC TEST RESULTS**

OFFENDER'S NAME: <i>Whetstone, Nevin</i>		MDOC NUMBER: <i>58883</i>
INSTITUTION:		UNIT: <i>26B</i>
FROM: <i>Brown</i>	HEALTHCARE PROVIDER'S SIGNATURE: <i>Angela Brown, CNP</i>	DATE: <i>7/30/14</i>
The Medical Unit has received and reviewed the following results:		
_____ Lab Work: _____ <input checked="" type="checkbox"/> X-Ray: <i>7-29-14</i>		
<input checked="" type="checkbox"/> Based on evaluation, your results were within normal limits. No follow-up is needed, however if you would like to discuss your test results with a member of our healthcare staff, you may request to do so by submitting a "Sick Call Request." This will not result in a co-pay fee.  <input type="checkbox"/> Based on evaluation, your results were outside of normal limits, and you are being scheduled for a routine follow-up appointment within 2 weeks.  <input type="checkbox"/> Your Chronic Care <sup>Radiographs</sup> <del>will</del> will be discussed with you in your scheduled Chronic Care Clinic visit.		



H/m

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**MISSISSIPPI DEPARTMENT OF CORRECTIONS**

**MEDICAL DEPARTMENT NOTIFICATION OF DIAGNOSTIC TEST RESULTS**

OFFENDER'S NAME: <i>Whetstone, Nath</i>		MDOC NUMBER: <i>58863</i>
INSTITUTION: MSP		UNIT: <i>28 B</i>
FROM: <i>Farrell</i>	HEALTHCARE PROVIDER'S SIGNATURE <i>[Signature]</i>	DATE: <i>6-7-17</i>

**The Medical Unit has received and reviewed the following results:**

\_\_\_\_\_ Lab Work: \_\_\_\_\_

✓ X-ray: *boole*

☐ Based on evaluation, your results were within normal limits. No follow-up is needed.

☒ Based on evaluation, your results were outside of normal limits and you are being scheduled for a routine follow-up appointment with 2 weeks.

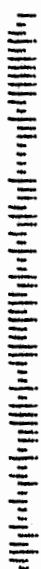
☐ Your Chronic Care Test(s) will be discussed with you in your scheduled Chronic Care Clinic visit.

Kevin Whetstone #56663  
MSP/Unit 26B, C109  
Parchman, MS 38738

RECEIVED  
NOV 02 2017  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

David Crews  
Pro Se Law Clerk  
U.S. District Court  
301 W. Commerce St. #13  
Aberdeen, MS 39730

39730-252001



NOV 02 2017 PM 4:11

ABERDEEN, MS 39730

